

Senate File 470 - Introduced

SENATE FILE 470

BY KAPUCIAN

A BILL FOR

1 An Act allowing a landowner of agricultural land to obtain
2 relief from a government body for its use of adjacent real
3 property.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **6C.1 Definitions.**

2 As used in this section, unless the context otherwise
3 requires:

4 1. "*Agricultural land*" means the same as defined in section
5 6A.21.

6 2. "*Agricultural landowner*" or "*landowner*" means a person
7 listed on the tax assessment rolls as responsible for the
8 payment of real estate taxes imposed on agricultural land.

9 3. "*Government body*" means an agency as defined in section
10 17A.2, or any political subdivision of the state, authorized to
11 hold an interest in and control the use of real property.

12 4. "*Government-held land*" means any real property in which
13 a government body has acquired a legal or equitable interest,
14 regardless of whether the acquisition was by purchase,
15 exchange, condemnation, gift, or otherwise, if the government
16 body controls the use of such real property.

17 Sec. 2. NEW SECTION. **6C.2 Applicable procedures.**

18 Chapter 6B applies to this chapter to the extent it is
19 applicable and consistent with this chapter's provisions.

20 Sec. 3. NEW SECTION. **6C.3 Use of real property held by a**
21 **government body.**

22 1. A government body shall not use government-held land in
23 a manner that does any of the following:

24 a. Severs or restricts the agricultural landowner's access
25 to the landowner's agricultural land, unless the landowner
26 is granted an equivalent alternative access or receives
27 compensatory damages.

28 b. Diminishes the fair market value of the agricultural
29 land, unless the agricultural landowner receives compensatory
30 damages.

31 2. Compensatory damages shall be calculated by determining
32 the diminution in the fair market value of the agricultural
33 land proximately caused by the government body's use of the
34 government-held land. Fair market value is deemed to equal the
35 price that a buyer who is willing but not compelled to buy and

1 a seller who is willing but not compelled to sell would accept
2 for the agricultural land. An agricultural landowner's share
3 of any compensatory property damages shall be based on the
4 landowner's share of the interest in the agricultural land.

5 3. This section does not apply to a landowner whose legal or
6 equitable interest in agricultural land was acquired after the
7 government body's use of its government-held land so long as
8 the government's use has not significantly changed.

9 Sec. 4. NEW SECTION. **6C.4 Petition for redress.**

10 1. An agricultural landowner whose agricultural land is
11 adjacent to government-held land, and is negatively affected by
12 the government body's use of its land, may file a petition for
13 redress with the board of supervisors of any county where the
14 government-held land and the landowner's adjoining agricultural
15 land are located. If the county board of supervisors is a
16 party to the matters in controversy, the agricultural landowner
17 may file the petition for redress with the board of supervisors
18 in an adjoining county. If more than one agricultural
19 landowner petitions the county board of supervisors, the county
20 board of supervisors shall consolidate the petitions.

21 2. The board of supervisors by resolution shall approve
22 the petition, unless the board of supervisors determines that
23 the petition is fraudulent, erroneous, or frivolous. Within
24 forty-five days after the county board of supervisors adopts
25 the resolution approving the petition, the agricultural
26 landowner must commence the proceeding by filing an application
27 with the chief judge of the judicial district of the county
28 requesting the appointment of five compensation commissioners
29 to decide the matters in controversy. The compensation
30 commissioners shall include two independent appraisers and
31 three owners of agricultural land located in the same county
32 where the government-held land and adjoining agricultural
33 property are located.

34 3. The application shall contain the following:

35 a. The name and address of the agricultural landowner and a

1 description of the agricultural land.

2 *b.* The name and address of the government body and a
3 description of the government-held land.

4 *c.* A description of all matters in controversy and all
5 remedies sought by the agricultural landowner, including that
6 the agricultural landowner be provided any of the following:

7 (1) Equivalent alternative access to the landowner's
8 agricultural land.

9 (2) An award of compensatory damages for the agricultural
10 land diminution in value.

11 Sec. 5. NEW SECTION. **6C.5 Commissioners determination.**

12 1. *a.* The commissioners shall provide notice to the parties
13 stating all of following:

14 (1) The name and address of the agricultural landowner and
15 government body involved in the proceeding.

16 (2) A description of the agricultural land and
17 government-held land subject to the proceeding.

18 (3) A description of each matter in controversy alleged in
19 the application and the remedies sought.

20 (4) The date, time, and place when the commissioners will
21 inspect the government-held land and the adjacent agricultural
22 land.

23 *b.* The notice shall be delivered to the parties in the same
24 manner provided by the Iowa rules of civil procedure for the
25 personal service of original notice.

26 2. The commissioners shall inspect the government-held
27 land and adjacent agricultural land on the date and at the
28 time provided in the notice. The commissioners shall render a
29 decision answering each matter in controversy alleged in the
30 application. The decision may include an order requiring the
31 government body to grant the agricultural landowner access
32 to the agricultural land or award the landowner compensatory
33 damages based on the land's diminution of value.

34 3. The commissioners shall order the sheriff to provide
35 written notice of the commissioners' decision to the parties

1 by personal delivery, in the manner provided by the Iowa
2 rules of civil procedure for the personal service of original
3 notice, or by certified mail, return receipt requested. The
4 notice shall include findings of fact and conclusions of law,
5 separately stated; any order issued by the commissioners; and a
6 description of the right of a party to appeal the decision.

7 4. A decision rendered by the commissioners is final
8 unless appealed to the district court having jurisdiction
9 in the county where the government-held land and adjoining
10 agricultural land are located. A party must file an appeal
11 within ninety days from the date that the commissioners'
12 decision is rendered. The appeal to district court shall be
13 triable de novo.

14 5. A commissioner shall receive a per diem of fifty dollars
15 and actual and necessary expenses incurred in the performance
16 of official duties which shall be paid by the county.

17 6. The costs of the proceeding shall be paid by the parties
18 to the county. However, the government body shall pay all
19 actual and reasonable costs incurred by the agricultural
20 landowner and the landowner's reasonable attorney fees as
21 determined by the commissioners if the amount of damages
22 awarded by the commissioners exceed seventy percent of the
23 amount of damages alleged in the application. The government
24 body shall also pay all costs of the appeal, including the
25 agricultural landowner's actual and reasonable attorney fees to
26 be taxed as court costs, unless at trial or on further appeal,
27 the same or a lesser amount of damages is awarded by a court
28 than was awarded by the commissioners.

29 7. For any proceeding or appeal to district court, the
30 burden of proof shall be on the government body and the
31 standard of proof shall be by a preponderance of the evidence.

32 EXPLANATION

33 The inclusion of this explanation does not constitute agreement with
34 the explanation's substance by the members of the general assembly.

35 This bill relates to cases in which land is held by a

1 government body (a state agency or political subdivision)
2 and the government body's use of such land may negatively
3 affect adjoining agricultural land. The government body's use
4 of government-held land could involve interfering with the
5 agricultural landowner's access to the agricultural land or a
6 diminution of the fair market value of the agricultural land.
7 The agricultural landowner may commence a proceeding to obtain
8 relief by filing a petition for redress with a county board
9 of supervisors. The county board of supervisors must approve
10 the appointment of five commissioners by the chief judge of
11 the judicial district for that county. The commissioners must
12 inspect the land held by both parties and make a decision which
13 may include an order requiring the government body to grant
14 the agricultural landowner access to the agricultural land or
15 award the landowner compensatory damages. The decision is
16 final unless appealed to the district court. The bill provides
17 that the government body shall pay costs of the proceeding,
18 including the agricultural landowner's attorney fees, if the
19 amount of damages awarded exceed 70 percent of the amount of
20 damages claimed by the agricultural landowner. The government
21 body must also pay the costs of the appeal, including attorney
22 fees unless the district court at trial or a court on further
23 appeal awards the same or a lesser amount of damages.